

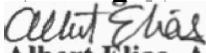


# PLANNING COMMISSION

Department of Urban Planning & Design • P.O. Box 27210 • Tucson, AZ 85726-7210

**DATE:** February 7, 2007

**TO:** Planning Commission

**FROM:**   
Albert Elias, AICP  
Executive Secretary

**SUBJECT:** *Broadway-Craycroft Area Plan Amendment*  
PA-06-04, Swan Road/Fleur de Lis - Office  
Public Hearing (Ward 6)

**Issue:** This is a request by Marjorie Schaeffer, owner of Fleur de Lis Institute, classified as a Postsecondary Institution use in the *Land Use Code (LUC)*, to amend the *Broadway-Craycroft Area Plan* to allow an office use located on the southeast corner of Swan Road and Calle Jabali. The applicant seeks to remedy a zoning violation by first amending the land use plan to allow office uses and then rezoning the site from Residential (R-1) to Office (O-2) zoning (the first zone in the *LUC* hierarchy that would allow the Postsecondary Institution land use for a site this size).

A copy of the land use and zoning map is provided as Attachment A. A copy of an aerial photograph of the site and surrounding areas is provided as Attachment B. A copy of the plan amendment application is provided as Attachment C. A copy of the Broadway-Craycroft Area Plan Land Use Concept Map is provided as Attachment D.

**Recommendation:** It is recommended that the Planning Commission forward the proposed Area Plan amendment to the Mayor and Council with a recommendation to revise the Conceptual Land Use Map to allow office use on the amendment site (see Attachment F – Proposed Amendment to Conceptual Land Use map).

**Planning Commission Action:** On January 18, 2007, the Planning Commission held a study session on the plan amendment request. The Planning Commission recommended that this case be set for public hearing on February 7, 2007. During the study session questions were raised regarding the non-conforming use status of the site, the appropriate zoning for a postsecondary institutional use, possible development impact from O-2 zoning, and the possibility of limiting the use on this site to educational use. The Planning Commission asked that at the public hearing on February 7<sup>th</sup>, staff provide more information and clarity regarding these questions.

**Additional Information:** A summary of the additional information the Planning Commission requested is provided below:

- Why the nonconforming use is not able to be reinstated for the Fleur de Lis site if the zoning violation has been rectified through the removal of the illegal modular building? - If a nonconforming use illegally expands or substitutes uses, it loses its nonconforming status. However, usually, if it returns to its last approved use, then it can retain its nonconforming status (see LUC 5.3.6 Nonconforming Use or Structure). If the applicant's proposed plan was to keep everything the same, i.e. no expansion or modifications to the site, then its nonconforming use status could be retained. However, the applicant has met with staff and outlined proposed improvements for the site, i.e. a substantial botanical garden, a greenhouse, and enhancements to the parking lot area. The Zoning Administrator, in accordance to section 5.3.6 of the Land Use Code, has determined that the proposed improvements are an expansion in which the site loses its nonconforming status and will be required to be rezoned to O-2 in order to comply with the Land Use Code.
- What is the appropriate zone for a Postsecondary Institutional Use? And why? - The Land Use Code allows postsecondary schools in zones where the normal practice of the occupation is permitted (LUC 3.5.3.3). The Zoning Administrator has determined that the the Fleur de Lis Institute landscape design school would be permitted in an office zone (O-2 in this case), because a landscape design professional would normally conduct their business in an office.
- What could be the possible development impact from O-2 zoning of this site? -
  - Non-residential (office) development: O-2 zoning has a maximum floor area ratio (FAR) of 0.50 (Site Area times FAR). The maximum height of a building would be 26 feet in O-2. Typically, the maximum floor area is never achieved due to shape of the site, the use of surface parking to meet parking requirements, loading zone requirements, trash collection maneuvering, landscaping requirements, and building setbacks.
  - Residential development: The O-2 zone allows for a density of 8 units per acre. The maximum height of a residential unit would be 25 feet. It is possible that the site could be developed with 31 units. Typically, the maximum number of units is never achieved due to shape of the site, the use of surface parking to meet parking requirements, trash collection maneuvering, landscaping requirements, and building setbacks.

It should be noted that any future development of this site could be limited by the Aldea Linda Subdivision CC&R's: i.e. height limited to one-story, minimum lot size 64,000 square feet. Also any potential impacts could further be limited due to conditions of rezoning.
- What is the possibility of limiting the use on this site to educational use only? - There are legal considerations for this option. The City Attorney's office has advised that rezonings

must use the established zoning classifications and cannot further restrict the permitted uses within those classifications on individual properties. State law requires that zoning classifications be enforced in a uniform manner. When applied to the City's zoning classifications, this means that all of the property owners within any given classification have the same permitted uses. Plan amendments are more general than the specific zoning classification, and thus should identify the broad land use categories that are appropriate rather than attempt to specify a specific use for the property. Both plan amendments and rezonings may address design issues to insure that new uses are compatible with existing uses of adjacent property, such as providing for enhanced buffering or landscaping, increased lot coverage or height limitations or the orientation of buildings and traffic, provided there are not direct limitations on the permitted uses.

**Broadway-Craycroft Area Plan:** Provides policy direction for a three square mile area in the central part of Tucson. The L-shaped *Plan* area is bounded by Speedway Boulevard and Broadway Boulevard on the north; 22<sup>nd</sup> Street on the south, Craycroft Road and Wilmot Road on the east; and Swan Road on the west. The amendment site is along the western edge of the *Plan* area. It was adopted in 1988, and has not been amended.

**Existing Zoning and Land Uses:** The R-1 zoned amendment site is approximately 291 feet wide and about 530 long (approximately 3.9 acres). The site is currently be used as a landscaping design institute (postsecondary institution use). The site has a 3500 square foot building that contains classrooms and offices. There is a large walled garden on the north side of the site. Parking is on the south side of the building.

Directly north and east of the amendment site, is the Aldea Linda Subdivision, a large lot single-family development. These neighbors would be most affected by this proposed land use change.

Directly to the south are commercial uses – Directly across Swan Road are commercial and residential uses (C-2 and R-1)

**Land Use Plan Policy Summary:** The *Broadway-Craycroft Area Plan* supports residential use on this parcel. Non-residential land use in the Broadway-Craycroft area plan should be located as designated by Conceptual Land Use Map (see attachment D), and concentrated intensity along major street frontages. Swan Road is designated as an arterial street. These policies encourage non-residential development at locations, which preserve, enhance, and complements adjacent residential uses. *General Plan* policies support non-residential uses adjacent to residential neighborhoods if the non-residential use is designed to be compatible with the residential use.

**Public Contact:** Staff has not been contacted directly by any members of the general public about this proposed land use amendment. However, the applicant has received a letter of support from the Toumey Park Neighborhood Association (see attachment E).

**Discussion:** It is important to note that the project site is part of the Aldea Linda Subdivision in which the CC&R's allow for this site (Lot 6) to be used for educational and artistic uses, or residential use. Historically, Lot 6 has been used at one time or another for religious, artistic, and educational use. However, the land use code has evolved and changed over the years as to permitted and allowed land uses for various zones, making the existing school a non-conforming use for zoning purposes.

The applicant is requesting a plan amendment to the *Broadway-Craycroft Area Plan* in response to a zoning violation, and their proposed plans for the site. The applicant has since removed the modular building that was used for additional office space. Still, the Zoning Administrator has determined that the Fleur de Lis Institute's proposed plans for an extensive botanical garden, green house, and parking lot enhancement is considered an expansion, and hence the site can not retain its non-conforming status. In order for the applicant's landscape design school to continue operation, this site needs to be rezoned to "O-2", an office designation, which is the first zone in the *LUC* hierarchy that would allow the Postsecondary Institution land use for a site this size.

Consequently, the *Broadway-Craycroft Area Plan* Land Use Concept Map needs to be amended to identify office use for this site before the applicant can apply for "O-2" zoning.

The proposed office use is an appropriate use that is allowed and encouraged within the goals and policies of the *Broadway-Craycroft Area Plan*. The applicant's current use of the property as postsecondary institutional for the landscape design school can serve as a buffer and transition for the commercial development located directly to the south of the Aldea Linda Subdivision at the intersection of Swan Road and 22<sup>nd</sup> Street. Likewise the policies of the *Broadway-Craycroft Area Plan* recognize that an office use on this site could preserve and enhance the character of the Aldea Linda Subdivision by serving as a land use transition and buffer to Swan Road (a major arterial roadway) and the commercial development at the nearby intersection of Swan Road and 22<sup>nd</sup> Street.

**Conclusion:** It is recommended that the Planning Commission forward the proposed Area Plan amendment to the Mayor and Council with a recommendation to revise the Conceptual Land Use Map to allow office use on the amendment site (see Attachment F – Proposed Amendment to Conceptual Land Use map).

AE:JB\jb

**Attachments:**

Attachment A – Zoning and Land Use Map

Attachment B – Aerial Photograph of Site and Surrounding Areas

Attachment C – Plan Amendment Application

Attachment D – *Broadway-Craycroft Area Plan* Land Use Concept Map and Pertinent Policies

Attachment E – Support Letter from Toumey Park Neighborhood Association

Attachment F – Proposed *Broadway-Craycroft Area Plan* Land Use Concept Map